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FEB 19 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant:) Art Unit: 2188
)
Serial No.: 10/764,946) Examiner: Doan
)
Filed: January 26, 2004) HSJ920030237US1
)
For: SYSTEM AND METHOD FOR SELECTING COMMAND FOR EXECUTION IN HDD BASED ON BENEFIT) February 16, 2008 750 B STREET, Suite 3120 San Diego, CA 92101
)

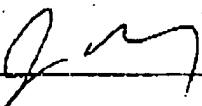
COMMENT ON STATEMENT ON REASONS FOR ALLOWANCE

Commissioner for Patents
Alexandria, VA

Dear Sir:

At this advanced stage of lengthy prosecution, the reasons for allowance accompanying the Notice of Allowability must not be accorded undue weight. Indeed under the rules, when, as here, the record as a whole makes the reasons for allowance clear, a statement on reasons for allowance is unnecessary, 37 C.F.R. §104. The reasons for allowance thus might misleadingly summarize the record as a whole. Consequently, Applicant does not necessarily acquiesce in or agree with the examiner's belated and unnecessary festooning of the record with comments that might or might not reflect the record accurately. Moreover, it is possible although not absolute that the examiner mischaracterizes the invention, or the prior art, or both, which could otherwise place an unwarranted interpretation on the claims. Accordingly, no presumption should be made that Applicant acquiesces in the reasons for allowance, nor should the public be misled into believing that the reasons for allowance trump the plain meaning of the claims.

Respectfully submitted,


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